

Turning to the prior art, the invention of Brannon is for a fish stringer with holder. It is nonanalogous art, and as such has no relevance to the present invention, which is a safe lasso toy for children.

The Brennan invention is used to string fish that are caught while in the act of fishing. At its distal end, the Brennan invention a separate ring is attached at and to one of the coil. At its proximal end, a separate clamp is attached to the end of the coil. In turn, the clamp is connected to a shank, which in turn is connected to the belt clip.

In contrast to the present invention, Brannon is not made out of plastic, nor could it be. A nonrigid. metal structure is needed to support the weight of the fish to be placed on the ring; otherwise, the weight of the fish would pull down on a plastic elastic spring, thus allowing the fish to be dragged downriver, which in turn will create a drag on the fisherman or the boat to which the fisher stringer is attached. For the purposes of its use, plastic could not be substituted for metal in this device.

Additionally, and contrary to the statements found in the Office Action, Brannon has no handle which is part of a single, unitary [plastic] wire. In fact, there appears to be no handle at all. The handle as described in the claims of the present invention is critical for the ability to whip the spring part of the device so that it extends, allowing the device to wrap around the "object of desire." In place of the handle described in the present invention, Brannon has a clamp connected to a shank, which in turn is connected to a shank housing, which is further connected to a passing clip. There is no single, unified plastic piece which has **both** a coil and a handle in one unitary structure, nor is there a suggestion or teaching of such a device.

Furthermore, and as noted above, the first claim of the present invention uses the phrase

"consisting essentially of." That limits the invention to essentially the features listed in the claim.

Those features include:

- a) a single, unitary plastic wire having a circular cross section and having memory,
- b) a helical section, said helical section ranging in length from about two and three-quarter inches to about six inches. and
- c) a handle, said handle being integral with said helical section, said handle comprising a straight section of said wire extending outwardly from said helical section wherein said handle ranges in length from about 3 ½ inches to about 6 ½ inches.

Because of the use of the phrase "consisting essentially of," the device excludes the hoop (28), the shank, the clamp, the rod, the clip, and any of the other features of Brannon.

If the Patent Office examines the video presented (twice) with the responses, it will be noted that it would not be possible to use the Brannon invention to perform the tricks that can be performed with the present invention, or would the exclusion of the devices listed above allow for Brannon's invention to be used in the manner taught or allowed by the present invention. Brannon has no handle. Indeed, the length of the handle of the present invention, along with the elasticity and memory of the plastic used, gives the invention its unique properties. These are not features that can simply be added to Brannon in an attempt to use foresight in order create "obviousness."

In ascertaining the differences between the prior art and the claims at issue (the second factual inquiry of *Graham v. John Deere*), it is essential to view the claims at issue as "the invention

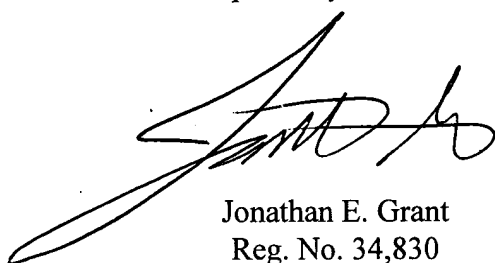
as a whole,” as required by 103 and “without the benefit of hindsight vision afforded by the claimed invention.” *Hodosh v. Block Drug Co., Inc.* 786 F.2d 1136, 1143 n. 5, 229 182, 187 n. 5 (Fed. Cir. 1986). Similarly, it is essential to consider all elements of the claimed invention; it is impermissible to compare the prior art with what the viewer interprets the “gist” of the invention to be. *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 221 USPQ 669 (Fed. Cir. 1984). In *Jones v. Hardy*, 727 F.2d 1524, 1527-28, 220 USPQ 1021, 1024 Fed. Cir. 1984), the court held that reducing a claimed invention to an ‘idea’ and then determining patentability of the ‘idea’ is error.

The dependent claims would be allowable once the independent claim is allowed. Hence, no further arguments against the dependent claim rejections are necessary.

This invention is now in condition for allowance..

Please call or fax me at (301) 603-9071 if you have any questions or comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jonathan E. Grant', with a large, sweeping flourish extending from the bottom left.

Jonathan E. Grant
Reg. No. 34,830

2107 Hounds Run Place
Silver Spring, Maryland 20906
301-603-9071